

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA) DOCKET NO. 3:15-cr-121-RJC
v.) FACTUAL BASIS
(1) CARLOS ALMONTE)
a/k/a "Rabioso")

NOW COMES the United States of America, by and through Jill Westmoreland Rose, Acting United States Attorney for the Western District of North Carolina, and hereby files this Factual Basis in support of the plea agreement filed simultaneously in this matter.

This Factual Basis does not attempt to set forth all of the facts known to the United States at this time. This Factual Basis is not a statement of the defendant, and, at this time, the defendant may not have provided information to the United States about the offenses to which the defendant is pleading guilty, or the defendant's relevant conduct, if any.

By their signatures below, the parties expressly agree that there is a factual basis for the guilty plea that the defendant will tender pursuant to the plea agreement. The parties also agree that this Factual Basis may, but need not, be used by the United States Probation Office and the Court in determining the applicable advisory guideline range under the *United States Sentencing Guidelines* or the appropriate sentence under 18 U.S.C. § 3553(a). The defendant agrees not to object to any fact set forth below being used by the Court or the United States Probation Office to determine the applicable advisory guideline range or the appropriate sentence under 18 U.S.C. § 3553(a) unless the defendant's right to object to such particular fact is explicitly reserved below. The parties' agreement does not preclude either party from hereafter presenting the Court with additional facts which do not contradict facts to which the parties have agreed not to object and which are relevant to the Court's guideline computations, to 18 U.S.C. § 3553(a) factors, or to the Court's overall sentencing decision.

1. La Mara Salvatrucha, commonly known as MS-13, including its leadership, members and associates, in the Western District of North Carolina, South Carolina, Virginia, El Salvador, and elsewhere, constitutes an "enterprise," that is, a group of individuals associated in fact, as defined in Title 18, United States Code, Sections 1961(4) and 1959(b)(2). MS-13 is a gang composed primarily of immigrants or descendants of immigrants from El Salvador with over 6,000 members in the United States regularly conducting gang activities in at least 42 states and the District of Columbia, as well as over 30,000 members internationally, mostly in Mexico, Honduras, Guatemala, and El Salvador. In the United States, MS-13 has been functioning since at least the 1980s. Gang members actively recruit members, including juveniles, from communities with a large number of immigrants from El Salvador. Members also have ethnic

heritage from other Central and Latin American countries. MS-13 has members operating throughout North Carolina, including Mecklenburg County and elsewhere.

2. In order to join MS-13, members are generally required to complete an initiation process, often referred to as being “jumped in” or “beat in” to the gang. During that initiation, other members of MS-13 beat the new member, usually until a gang member finishes counting aloud to 13. Members of MS-13 often signify their membership in the gang through gang-related tattoos and by wearing gang colors, which include blue, black, and white. Gang rules require members of MS-13 to protect the name, reputation, and status of the gang and its members from rival gang members or any other person. MS-13 members believe that all individuals should show respect and deference to the gang and its members. To protect the gang and to enhance its reputation, MS-13 members are expected to use any means necessary, including acts of intimidation and violence, to get respect from those who show disrespect. MS-13 members are required to commit acts of violence to maintain membership and discipline within the gang, including violence against rival gangs. Participation in criminal activity by an MS-13 member, particularly violent acts directed at rival gangs or as directed by the gang leadership, increases the level of respect accorded that member, resulting in that member maintaining or increasing his position in the gang, and possibly resulting in a promotion to a leadership position.

3. MS-13 is organized in the Western District of North Carolina and elsewhere into cliques, which are smaller groups operating in a specific region, city or part of a city. MS-13 cliques work together to engage in criminal activity and assist one another in avoiding detection by law enforcement. The cliques operate under the umbrella rules of MS-13. In North Carolina, some of the active MS-13 cliques include Trece Locos Salvatrucha, Hollywood Locos Salvatrucha, Charlotte Locotes Salvatrucha, Centrales Locos Salvatrucha, and Coronados Little Cycos Salvatrucha. Members meet to discuss, plan, and report on gang organizational issues, illegal activity committed on behalf of MS-13, acts of violence committed by MS-13 members against rival gang members and others with the goal of achieving control of territory, law enforcement activity against MS-13 members, and those suspected of cooperating with law enforcement. At MS-13 gang meetings, members often enforce gang rules by conducting beatings or “calentons” against members who violated the rules. Leaders of MS-13 cliques from across the United States and within regions of North Carolina meet to discuss gang rules and gang business, to resolve problems or issues among gang members, and to unite gang members from across the country.

4. MS-13 is engaged in and has an effect on interstate or foreign commerce by, among other things, engaging in the following activities: (i) collecting money from illegal activities to assist fellow gang members both here, in other states, and in El Salvador; (ii) gathering in businesses, particularly clubs, to intimidate law-abiding citizens, thereby restricting their movements in and out of local businesses; (iii) utilizing cars to travel for the purpose of conducting the affairs of the enterprise, telephones to communicate with fellow gang members, and the internet to check on the status of members arrested on public jail databases, communicate with one another, and show through photographs or other postings their allegiance

to MS-13; (iv) communicating with associated cliques and gang members in other states and travelling between states to establish hierarchy and maintain rules and discipline within the gang; (v) entering or remaining in the United States illegally; (vi) possessing and distributing cocaine and firearms in and affecting interstate commerce.

5. MS-13 in North Carolina is operated through a pattern of racketeering activity and has engaged in numerous acts which constitute racketeering acts defined in 18 U.S.C. § 1961, including murder, in violation of North Carolina General Statutes §§ 14-17, 14-2.4, 14-2.5, and 14-5.2; robbery, in violation of North Carolina General Statutes §§ 14-87, 14-87.1, 14-24, and 14-2.5; extortion, in violation of North Carolina General Statutes §§ 14-118.4, 14-2.4, and 14-2.5; murder, in violation of South Carolina Code of Laws §§ 16-3-10, 16-1-40, 16-1-50, 16-17-410, and 16-3-29; narcotics trafficking, in violation of Title 21, United States Code, Sections 841 and 846; and illegal use of a communication facility in violation of Title 21, United States Code, Section 843.

6. ALMONTE is a member of Centrales Locos Salvatrucha and is a self-admitted member of MS-13. ALMONTE has participated in debriefings with gang detectives during which he admitted his MS-13 membership and identified other members of MS-13. ALMONTE attended MS-13 meetings, including a meeting on June 8, 2014, which was recorded. ALMONTE was also intercepted discussing gang business with another MS-13 member. For example, on June 7, 2014, (30) OSCAR TREJO, ALMONTE, and another MS-13 member participated in a phone conversation during which they discussed the MS-13 meeting to be held the following day, TREJO's desire to shoot "chavalas," and ALMONTE's suspicions that some guys from Guatemala were "chavalas."

7. In April of 2014, investigators intercepted a letter written by ALMONTE to "Marlon Salvatrucha" in Guatemala. The narrative contained known MS-13 imagery such as references to the "beast" and the "horned one." In the letter, ALMONTE professed his loyalty to MS-13 and complained that MS-13 in Charlotte was not representing well. ALMONTE stated that the gang needed to be true to its standards of behavior including the struggle against enemies and federal officials. On May 10, 2014, ALMONTE participated in cutting another MS-13 member's hair because having long hair is against the rules of the gang. When he was most recently arrested on June 26, 2014, ALMONTE possessed a hand drawing of a horned beast being crucified on a cross. Posted to ALMONTE's Facebook account are photographs of himself and others displaying MS-13 gang signs and wearing the traditional MS-13 color of blue.

8. ALMONTE's underlying racketeering activity includes robbery and kidnapping.

a. On April 4, 2009, ALMONTE committed an armed robbery with other gang members. During the robbery, ALMONTE and the others, armed with knives, chased down the victim, stabbed him in the stomach, and struck him in the head. Prior to the robbery and assault, the robbers announced to the victim that they were "Salvatruchas." The victim was transported to the hospital. ALMONTE confessed to the robbery. ALMONTE pled guilty to assault with a deadly weapon inflicting serious injury in connection with the April 4, 2009 robbery.

b. ALMONTE committed a second robbery on May 2, 2011, along with (15) NERIS GUTIERREZ. This robbery was a home invasion robbery during which ALMONTE and GUTIERREZ carved an "X" into the backs of their victims. ALMONTE pleaded guilty to conspiracy to commit robbery with a dangerous weapon and second-degree kidnapping in connection with the May 2, 2011 robbery.

9. On June 26, 2014, North Carolina probation officers, accompanied by officers from the Charlotte-Mecklenburg Police Department, went to ALMONTE's residence to conduct a warrantless search as a condition of his probation. When they arrived, officers saw ALMONTE exit the rear of the residence and place something in a city trash can. Officers opened the trash can and found a Harrington and Richardson .32 caliber revolver on top of several garbage bags. A subsequent search of ALMONTE's bedroom revealed MS-13 gang-colored clothing, letters referring to specific MS-13 cliques, and images associated with the gang. During a post-arrest voluntary statement, ALMONTE admitted that he purchased the gun several days earlier for protection. ALMONTE also discussed his membership in MS-13 and identified several other gang members.

JILL WESTMORELAND ROSE
ACTING UNITED STATES ATTORNEY



ELIZABETH F. GREENE
ASSISTANT UNITED STATES ATTORNEY



WILLIAM M. MILLER
ASSISTANT UNITED STATES ATTORNEY

Defendant's Counsel's Signature and Acknowledgment

I have read this Factual Basis, the Bill of Indictment, and the plea agreement in this case, and have discussed them with the defendant. Based on those discussions, I am satisfied that the defendant understands the Factual Basis, the Bill of Indictment, and the plea agreement.



BRENT WALKER
ATTORNEY FOR DEFENDANT

DATED: 11-6-15